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10/605,942

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/605,942 | 11/07/2003 | John Leo Paul III. | | 2941 |
| 7590 | 09/24/2004 | | EXAMINER | |
| John Leo Paul III 1777 South Mill Road Heber City, UT 84032 | | | | COCKS, JOSIAH C |
| | | ART UNIT | PAPER NUMBER | 3749 |

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/605,942 | PAUL, JOHN LEO |
| | Examiner | Art Unit |
| | Josiah Cocks | 3749 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 November 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-9 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 07 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings filed 11/07/2003 are accepted by the examiner.

Claim Suggestions

3. The scope of claim 1 can be determined, however, the examiner notes that the claim construction is somewhat unusual in that the claim refers to "the burner" in line 3 prior to introducing "a burner" in line 5. The following changes are suggested to improve the claim format; Amend line 3 of the claim to recite --a burner--, and in line 5 recite --wherein the burner lays in the windscreen....-. Applicant is requested to make these changes apart from any other amendments to the claim applicant may make in response to this Office Action.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,192,881 to Nix (“Nix”) in view of U.S. Patent No. 3,866,994 to Bonin (“Bonin”).

Nix discloses an invention similar to that described in applicant’s claims 1-4 and 9. In particular, Nix discloses a portable campfire comprising a pressurized fuel source (100) with a safety valve (80) that the examiner considers would inherently function to regulate pressure and a hose (60), a burner assembly having gas channel (11) and orifices (20) that sits within a windscreens body (9). The windscreens body includes attached adjustable legs (30). Nix further discloses that the windscreens body is a plate that may be made of a variety of materials including metal (see col. 3, lines 12-17). To have selected a specific known metal, such as the aluminum plate recited in applicant’s claim 3, would be simply a matter of design choice and is not considered to be patentably distinct.

Nix does not disclose that the windscreens legs are foldable or are comprised of sturdy bent rods with wide bases and interlocking when folded.

Bonin teaches a portable burner assembly that is analogous to the portable campfire of Nix. In Bonin, foldable legs (34) are shown made of sturdy bent rods forming a wide support

base (see Fig. 3 and col. 3, lines 3-7). The examiner considers that when these legs are folded underneath the assembly they will interlock as claimed by applicant.

Therefore, in regard to claims 1-4 and 9, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the windscreens legs of Nix to be foldable as taught by Bonin as these legs serve to elevate the assembly when in use and folded to a storage position when not needed (see Bonin, col. 3, lines 3-7).

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nix in view of Bonin as applied to claim 1 above, and further in view of U.S. Patent No. 3,493,314 to Krance et al. ("Krance").

Nix in view of Bonin teach all the limitations of claim 5 except that the windscreens is bent in a shape that has irregular edges that produce a multiplicity of vortices.

Krance teaches a combination candle and receptacle (5) that is considered to be the equivalent of a windscreens. The walls of the receptacle/windscreens includes bent portions that form irregular edges (see Figs. 1 and 2). These irregular edges serve to induce flows of air into the candle flame, which is considered the producing a multiplicity of vortices recited in applicant's claim.

Therefore, in regard to claim 5, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the windscreens of Nix to be bent to form irregular edges as taught by Krance to desirably produce air circulation in the combustion zone to provide good combustion (see Krance, col. 2, lines 37-51).

7. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nix in view of Bonin as applied to claim 1 above, and further in view of U.S. Patent No. 6,227,843 to Pederson et al. ("Pederson").

Nix in view of Bonin teach all the limitations of claim 6-8 except for a round manifold tube that is bent in annular shape.

Pederson teaches a portable campfire analogous to that of Nix. In Pederson the burner tube is bent into an annular shape (see Fig. 5). This annular shape would allow for the placement of orifices of different sizes as recite in applicant's claim.

Therefore, in regard to claims 6-8, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the burner tube of Nix to be annular as taught in Pederson as this allows for the flames produced to be directed generally inwardly and upwardly to create a conical flame that simulated a natural wood-burning flame (see Pederson, col. 1, line 50 though col. 2, line 9).

Conclusion

8. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Levinson, Lee, Oliver et al. ('697), Yokoyama, Olivet et al. ('887)

and UK Patent No. 2 370 108 are included to further show the state of the art concerning windscreens and/or folding legs.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
September 17, 2004


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749